

IN THE SUPREME COURT OF THE STATE OF DELAWARE

UNITED WESTLABS, INC.,	§
HARRY KANTER, and ROBERT	§ No. 337, 2011
NEGOSIAN,	§
	§ Court Below – Superior Court
Plaintiffs Below,	§ of the State of Delaware,
Appellants,	§ in and for New Castle County
	§ No. 09-12-048
v.	§
	§
GREENWICH INSURANCE	§
COMPANY and AXIS SURPLUS	§
INSURANCE COMPANY,	§
	§
Defendants Below,	§
Appellees.	§

Submitted: February 22, 2012

Decided: February 28, 2012

Before **STEELE**, Chief Justice, **HOLLAND**, **BERGER**, **JACOBS** and **RIDGELY**, Justices, constituting the Court *en Banc*.

**O R D E R**

This 28th day of February 2012, it appears to the Court that:

1) The plaintiffs-appellants, United Westlabs, Inc., Harry Kanter, and Robert Negosian (collectively “UWL”), appeal from the final judgments of the Superior Court denying UWL’s motion for summary judgment against Axis Surplus Insurance Company (“Axis”) and Greenwich Insurance Company (“Greenwich”), and granting summary judgment in favor of Axis

and Greenwich. UWL was an insured under claims-made liability policies issued by Axis and Greenwich.

2) UWL instituted this action against the insurers after they both denied coverage of claims asserted by Seacoast Laboratory Data Systems (“Seacoast”) against UWL. The Superior Court granted summary judgment in favor of the insurers on two independent and alternative grounds: first, that the unambiguous language of both policies barred UWL from recovering; and second, that title 18, section 2711 of the Delaware Code precluded recovery under the policies because UWL made misrepresentations in its applications for insurance, which were material to both insurers’ risk of insuring UWL.

3) We have concluded that the judgments of the Superior Court should be affirmed solely on the basis of the alternative holding that UWL made material representations in its applications to both Greenwich and Axis, for the reasons stated by the Superior Court in its corrected opinion dated July 1, 2011. In so doing, we express no opinion on, and do not reach, the merits of the Superior Court’s ruling on the first ground.

NOW, THEREFORE, IT IS HEREBY ORDERED that the judgments  
of the Superior Court are affirmed.

BY THE COURT:

/s/ Randy J. Holland  
Justice